

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

KAREN D. MCNEIL,

Plaintiff,

VS.

BMC SOFTWARE, INC.,

Defendant.

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CIVIL ACTION NO. 06-cv-02492

MEMORANDUM AND ORDER

At issue between Plaintiff and Defendant are documents that Plaintiff has obtained and now produced outside of the discovery process in this case. They are Bates labeled 371-407 ("the Documents"). Defendant requests the Court to order the return or the destruction of the Documents.

Because the Court is unaware of any jurisdiction it has to require the return or destruction of the Documents, which appear altogether unrelated to the proceeding over which this Court does have jurisdiction, the Court instead **ORDERS** as follows:

1. The Documents are hereby subject to the Agreed Protective Order (Docket #50), deemed entered by the Court on August 2, 2007 (Docket #49), with the following modification:
2. Without further order, the Documents are not subject to Paragraph 4 of said Agreed Protective Order (Docket #50), ordering the return or destruction of confidential material or information upon conclusion of this litigation.
3. Plaintiff will have the opportunity to establish that the Documents, or some part of them, are relevant to this proceeding.

The Court notes that its Order of August 1, 2007 (Docket #47), requiring specific authorization from this Court before either party makes reference to the Documents, is unmodified by this Order and remains in full effect until this Court orders otherwise.

IT IS SO ORDERED.

SIGNED at Houston, Texas, on this the 29th day of August 2007.



THE HONORABLE KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE

**TO INSURE PROPER NOTICE, EACH PARTY WHO RECEIVES THIS
ORDER SHALL FORWARD A COPY OF IT TO EVERY OTHER PARTY
AND AFFECTED NON-PARTY EVEN THOUGH THEY MAY HAVE BEEN
SENT ONE BY THE COURT.**